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12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

16 SANTA BARBARA CHANNELKEEPER, a
California non-profit corporation,

Case No. 19STCP01176

17 Petitioner,

Judge: Hon. William F. Highberger

18 v.

CITY'S SUPPLEMENTAL STATUS
CONFERENCE REPORT

19 STATE WATER RESOURCES CONTROL
20 BOARD, etc., et al.,

Date: October 18, 2021

Time: 1:30 p.m.

Dept: SS10

21 Respondents.

Action Filed: Sept. 19, 2014

Trial Date: Feb. 14, 2022

23 CITY OF SAN BUENAVENTURA, etc.,

24 Cross-Complainant,

25 v.

26 DUNCAN ABBOTT, an individual, et al.,

27 Cross-Defendants.
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1 SUPPLEMENTAL STATUS CONFERENCE REPORT

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3 Pursuant to the Court’s order at the September 20, 2021 status conference, Defendant and
4 Cross-Complainant City of San Buenaventura (City) submits this supplemental, unilateral status
5 conference report in advance of the status conference scheduled for October 18, 2021 at 1:30 p.m.
6 for the sole purpose of addressing the pending motion by Cross-Defendant Claude Baggerly to
7 appoint a scientific advisor for hydrogeology (Motion). Numerous experts representing a variety
8 of interests in the litigation have been designated in this case by the City of Ventura, the City of
9 Ojai, the East Ojai Group, the State Water Resources Control Board, and the Department of Fish
10 and Wildlife. The expert whom Mr. Baggerly has at least twice requested during previous
11 argument on the Motion be selected as the “independent advisor,” Jordan Kear, has been
12 designated as an expert for the City of Ojai. It would appear then that Mr. Baggerly’s Motion is
13 accordingly moot.

14 In sum, experts have been designated, including the one the Motion seeks to appoint, and
15 their depositions are being scheduled. The Court’s appointment of an additional expert would
16 undoubtedly delay the case and prevent Phase 1 trial from proceeding on February 14, 2022, as
17 scheduled. As set forth more fully in the City’s opposition to the Motion filed on June 1, 2021,
18 the first supplemental opposition to the Motion filed on July 8, 2021, and the second
19 supplemental opposition to the Motion filed on September 7, 2020, the Motion should be
20 denied.

21 1. Mr. Baggerly’s Motion is Moot

22 Mr. Baggerly cites hydrogeologist Jordan Kear in his Motion as a qualified hydrogeologist
23 that “can help the court.” He has also suggested that the Court should appoint Mr. Kear on
24 several occasions and offered to give the Court his phone number at the September 20, 2021
25 status conference. On September 24, 2021, the City of Ojai designated Mr. Kear as its expert
26 witness. Mr. Baggerly’s motion is accordingly moot. His requested expert has been designated
27 in this matter. The Court will have the opportunity in Phase 1 trial to determine the qualifications
28 of these multiple designated experts, who will provide testimony regarding threshold questions

1 regarding the boundaries of the groundwater basins and the Ventura River Watershed
2 (“Watershed”) and the interconnection between the groundwater and surface water in the
3 Watershed. The Court will hear from qualified experts, ask questions of these qualified experts,
4 weigh the credibility of these qualified experts based on the strengths of their opinions, and
5 render a decision based on the evidence and opinions presented.

6 2. The Requested Relief in Mr. Baggerly’s Motion is not Legally Authorized

7 The Motion has improperly asked this Court to appoint a “special advisor” to work
8 directly with the Court to help “explain” the “admissibility and value” of evidence and opinions
9 in this case. There is no legal authority to do what the Motion requests, and it must be denied on
10 that basis. In some circumstances, which are not present here, a court may appoint an expert (but
11 not a “special advisor”) under Evidence Code section 730. This Evidence Code section is used
12 when expert testimony is required to render a decision, but the parties have not provided the court
13 with the qualified expert opinions needed to answer the questions at issue. In other
14 circumstances, also not present here, a court may appoint a special master (but again not a
15 “special advisor”) under Code of Civil Procedure section 845 to conduct fact-finding or to
16 investigate technical and legal issues. As the City and other opposing parties have fully briefed,
17 the Court does not need to pursue either of these options or exercise its authority to appoint an
18 expert or special master in this case at this time.

19 3. Mr. Baggerly’s Requested Relief Would Delay the Case

20 The Court has granted the City’s motion to bifurcate issues for a Phase 1 bench trial
21 scheduled for February 14, 2022 and has set a discovery and motion schedule for that Phase 1
22 bench trial. Multiple experts have been retained and designated by parties with different interests
23 (and others could still be designated this month) and will testify on the Phase 1 issues. This Court
24 will have the opportunity to determine their qualifications, ask the qualified experts questions,
25 assess their credibility, and render a decision based on the evidence and opinions presented. The
26 Court, and the Court alone, has the power and the duty to perform these tasks, and there is no
27 need for an additional expert or a special master at this time. Appointing an expert or special
28 master now would result in substantial and unnecessary delay and prejudice to the City and to the

1 other parties that are diligently preparing for a February 2022 trial. For all of these reasons, the
2 Motion must be denied.

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Dated: October 12, 2021

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